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COMMITTEE ON REVENUE
February 17, 2005
LB 600, 299, 607, 578, 582, 699

The Committee on Revenue met at 1:30 p.m. on Thursday, February 17, 2005, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 600, LB 299, LB 607, LB 578, LB 582, and LB 699. Senators present: David Landis, Chairperson; Matt Connealy, Vice Chairperson; Tom Baker; Abbie Cornett; Ray Janssen; Don Preister; Ron Raikes; and Pam Redfield. Senators absent: None.

SENATOR LANDIS: Ladies and gentlemen, welcome to the Revenue Committee, hearing six bills today. Our process is to have the introducer make the first statement, followed by the proponents, the opponents, neutral testimony, and then the opening senator again if they wish to exercise that personal right. If you would like to get on record about a bill, we do have sign-in sheets at the corners which will allow you to get into the record of the bill without testifying. But if you do testify, we start by introducing ourselves and spell your last name for our record. If you represent a group, tell us what that group is. You've got a sheet of paper in the corners; you fill it out and you put it in this box right here so that we can get your name and record into the transcription. If you've brought an amendment or something for the committee, the right number to bring is ten to this committee. We'll pass those out and take a look at whatever you bring to us if you've got them. And if you have some remarks that you have prepared, handwritten or typed, whatever, but you make use of them, we would like to take those from you at the end of your testimony, copy them, and return the original to you. It allows the transcription to be more accurate and speedy, thereby saving time and giving a better work product. We have good attendance today from the committee even though they are busy folks with lots of other bills in other committees and might be coming in and out as the day progresses. Over here on my left is Don Preister. Joining us, I think, just a little later today will be Abbie Cornett. Ron Raikes, who is our Education Chairman; Pam Redfield; I'm Dave Landis; this is Matt Connealy, who is our Vice Chairman; and this is Ray Janssen, who is the Chairman of the General Affairs Committee; and Tom Baker, who is Chairman of the Transportation and Telecommunications Committee. Our committee clerk is Erma James and our

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LB 600

committee counsel is George Kilpatrick. Senator Louden, if you would like to come up and introduce this bill. Let me ask now, how many are here to testify in favor of LB 600? In opposition to LB 600? And neutral on LB 600? LeRoy, you may be our...the sole voice on behalf of this good, bad, or indifferent, as the case may be.

LB 600

SENATOR LOUDEN: Thank you, Senator Landis and members of the Revenue Committee. My name is LeRoy Louden. That's spelled L-o-u-d-e-n, and I represent the 49th Legislative District. I'm introducing LB 600 to remove from comparable sales agriculture and horticultural land that is a tax deferred exchange under Section 1031 of the Internal Revenue Code of 1986. Ag land that is purchased using this type of sale is usually inflated in price in order to receive the benefit of not paying a capital gains tax. Sellers have 180 days to complete a transaction to purchase land to qualify under the 1031 exchange provisions. By doing so, they save paying any capital gains tax on the sale of that property and therefore use some of the savings to finish the deal, so to speak, if they are getting pressed for time. This, in fact, then is not a bona fide sale of ag land but a sale to save tax dollars. I believe these sales should be excluded when using a comparable sales analysis for ag and horticultural land valuation. The land is not purchased for its agricultural capability, but is being purchased for the tax incentive of a 1031 deferred tax sale. Also, LB 600 would require that the guidelines in Section 77-1371 be used. The guidelines in Section 71-1371 have been in statutes that have not been adhered to by the Property Tax Administrator to value agricultural and horticultural land. Using the guidelines that are in statutes would allow everyone to be apprised of the criteria that are used to value ag land in Nebraska. I'd be happy to answer any questions.

SENATOR LANDIS: Questions for Senator Louden? Thank you, LeRoy. Appreciate it very much. First testifier in favor of this measure? In opposition to this measure? Neutral on this measure. Senator Louden to close.

SENATOR LOUDEN: Okay, I will.

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SENATOR LANDIS: Okay.

SENATOR LOUDEN: Just as well use the chair while it's here.

SENATOR LANDIS: Absolutely. It's warmed up, as you know.

SENATOR LOUDEN: You bet. I think LB 600 would probably go hand in hand with Senator Landis' bill, LB 263. I think it's out in Section 14 of LB, subsection 5, there is where you are enlarging the target area for comparable sales. And something like this I think would be quite useful for that area of the statutes so that when they do use, enlarge their target area for comparable sales, that they could probably adhere to a little bit stricter code of what to use for comparable sales. With that I'll...okay.

SENATOR LANDIS: Senator Raikes has got a question, and then Senator Baker.

SENATOR RAIKES: Senator Louden, so we're going to exclude some, I guess you...legitimate arm's length's sales, people who don't know each other, who don't have some kind of a special deal, agree upon a price, make a transaction, we're going to exclude that from the sales file, from the information we use to establish land values.

SENATOR LOUDEN: True. The sales that you are using aren't necessarily being bought for agricultural or horticultural purposes. They're being bought for a tax advantage, a deferred sales tax.

SENATOR RAIKES: What about somebody who is just wealthy? Just has lots of money? They don't have to worry about what price they pay. Should we exclude those sales?

SENATOR LOUDEN: I don't think so. Not if they're not using a tax deferred sales.

SENATOR RAIKES: But there has got to be...I mean you would agree, I think, there have to be other factors that other than a hard, cold, bottom-line calculation that get involved in people making decisions about land prices or...yeah, we're talking about land prices. We're going to exclude all that stuff?

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SENATOR LOUDEN: Okay,...

SENATOR RAIKES: People make dumb decisions sometimes.

SENATOR LOUDEN: I agree; I agree.

SENATOR RAIKES: Should we exclude dumb decisions?

SENATOR LOUDEN: We just went through two, four days of it.
(Laugh) Sorry about that.

SENATOR RAIKES: No, I made a smart decision there, but go ahead.

SENATOR LOUDEN: Okay, your sales deal, these 1031 sales are bought and purchased. This land is bought and purchased to save a tax bill. They can save their capital gains tax if they do it right. Consequently, they usually have a tendency to pay more for land because they only have 180 days to make the deal go through. Now, by having these sales out there, this raises the value of all of the sales. It puts a bottom on the price of your land out there, true. This isn't designed to save tax money; it is just designed to take these sales out of the mix.

SENATOR RAIKES: Yeah, I think I understand your motive there, and the Chairman is giving me more leash here than he should, but...so...

SENATOR LANDIS: Well, this is your last question, Ron, so it's okay.

SENATOR RAIKES: (Laugh) So, at any rate, suppose I do one of these 1031 deals, and actually it makes money for me. I mean, suppose I two or three years later can sell the thing for actually more money than what I paid, and let's just say that it was some...the buyer didn't happen to be using the 1031 provision.

SENATOR LOUDEN: Well, if you...okay, you want to remember, it's a tax deferred sale. You don't save the tax; you just defer the tax when you are buying the land.

SENATOR RAIKES: All right.

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SENATOR LOUDEN: It...when you...

SENATOR RAIKES: But somehow...you know, maybe...I didn't overpay though. Isn't that possible?

SENATOR LOUDEN: It could be. You mean, the price of valuations of land that went up?

SENATOR RAIKES: Yeah. What...

SENATOR LOUDEN: If you live on the Front Range, yeah, whatever you bought last week is going to be worth more next week, whether you did it with a 1031 or whether you bought it outright; that's true.

SENATOR RAIKES: Okay.

SENATOR LANDIS: Senator Baker had a question a little earlier.

SENATOR BAKER: Thank you, Senator Landis. Are there...can you...obviously this must be a problem up there. I don't know how many 1031 sales are out in my area, but you are saying there are quite a few up in your area, or...?

SENATOR LOUDEN: Well, we hear somewhere around 65 percent of the sales is what Linda Witt told me in Sheridan County, as usually tax 1031 deferred sales. We have a lot of people coming out of the Front Range area and coming over into western Nebraska and purchasing ranch land, and in the Pine Ridge area they're purchasing some of that, oh, with timber and that sort of thing, for recreational purposes or for whatever. But, yeah, they go there to park the money for...

SENATOR BAKER: Okay. You have to understand that LB 600 was Senator Coordsen's bill a number of few years ago dealing with valuation issues, too, wasn't it?

SENATOR LOUDEN: That was the luck of the draw.

SENATOR BAKER: They must save 600 for valuation issues.

SENATOR LANDIS: Senator Janssen.

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SENATOR JANSSEN: Senator Louden, I know what you are talking about. It doesn't only happen in the western part of the state. It happens in the eastern part of the state also, especially with the sales of land in Omaha, you know, for development. Those people have to get...they have to buy something else, and they'll go into Dodge County, and I know one-half section of land that was purchased never was farmed for two or three years. It just grew up in weeds. And that was for the sole purpose of just getting rid of those dollars and reinvesting those dollars in like property. So I just want you to know it happens in the eastern part of the state, too.

SENATOR LOUDEN: Okay, well, I'm not that familiar here. I thought you guys had it all pretty cushy down here, but...those of you that are...

SENATOR JANSSEN: Well, it was a bad situation because the weeds and cockleburrs and the neighbors were very upset, too. That was just one isolated incident. But most generally someone will work that land, but in this case they didn't.

SENATOR LOUDEN: Well, this is...the bill is designed to just slow the valuation increase in our land.

SENATOR JANSSEN: And I understand that; um-hum.

SENATOR LOUDEN: It isn't going to save anybody any tax; it isn't going to stop anything. It just slows it. Sheridan County, I think, went up 24 percent or something like that, and before that it went up considerably higher. We try to save it so that our property tax isn't getting to be overburdensome in the rural areas, which it is getting to be tough.

SENATOR LANDIS: Other questions? Senator Connealy.

SENATOR CONNEALY: One more comment on a bill that doesn't have any testimony. Four years ago in Burt County, every sale of agricultural land was a 1031; every single... It hasn't been that since. But it is a distortion that the federal tax code does to agricultural land, and I think it has to be solved on the federal level, but this might be a step, but if we could change it to some other asset they could transfer it to because it is a distortion. Thank you.

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LB 600, 299

SENATOR LANDIS: Comments or questions? Thank you very much, Senator Louden. Sparked a lot of interesting controversy and discussion among the committee.

SENATOR LOUDEN: Thank you, Senator Landis and committee members.

SENATOR LANDIS: Thank you. Senator Thompson is here, or not. On her way? Let me ask this question. How many are here to testify about LB 299, property tax protest procedures...it happens to be my bill...because I think we can do this before Senator Thompson gets here because it will be very short and sweet. Not sweet. That's right. Maybe not sweet. I guess it will be up to the committee if it is sweet or not.

LB 299

SENATOR LANDIS: Members of the Revenue Committee, David Landis, principal introducer of LB 299 representing the "Garden District" today. Sticking my nose into some Douglas County business. Hi, Nancy. It won't take me a minute. Read in the paper that they, for tax protest purposes, had county commissioners hearing protests individually from their own jurisdiction so that you've got your area of town or your area of the county, and you individually get to hear the tax protests and adjust the valuations. I have a note from Mike Boyle in an e-mail saying that they are not going to be doing this in the future, however looking at that on the face of it, I thought, hum, there's an opportunity for mischief. I don't think we should allow that. I wrote this bill, sticking my nose into the Douglas County business, but on the theory that I thought the system was not the kind of approach we would want to take for tax valuation. That's why I introduced the bill. That's where it came from. And without the legislation, Douglas County at least will adopt, I believe, a principle of not following that practice in the future. If the committee thinks the bill is sensible and wise, I ask for its endorsement and passage. Otherwise, that's why it's brought and that's the purpose of the bill.

SENATOR CONNEALY: Thank you, Senator Landis. Questions from the committee? Seeing none, first proponent.

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LB 299, 607

Opponent? Neutral? Senator Landis waives closing.

SENATOR LANDIS: Senator Thompson, come on up. Thrilled to see you.

LB 607

SENATOR THOMPSON: Nice to see you. LB 607 is what we say in the trade, what we call in the trade, a retred. This is a bill that I introduced several years ago. I understand it's come up since then. The first time I introduced this, I believe it was 2001,...in 2000, the committee did advance it and we got caught by the clock and it didn't have an opportunity to be heard that particular year. And what it recognizes is the fact that county treasurers...we're always asking county government to be most efficient with its use of tax funds. And this is...and there will be testimony to follow on this...this is a process whereby their costs of doing business are more than what is being charged for that processing. And the treasurer's office in Sarpy County brought this to my attention several years ago. We are introducing the bill again this year for your consideration. And on page 2 of the bill you will see that the charges move from a fee of \$10 to \$15 for a new certificate and a charge of \$25 for Section 18-23 from \$10. And as you are aware, those of you who were on the committee last year, this is a process whereby counties use other people to help collect delinquent property taxes. People buy these deeds or certificates, and a process is enhanced to make sure that the county isn't holding these for a long period of time and they are able to collect the funds. The question probably isn't, should this be a higher fee? Pretty much everybody agrees that it's costing the counties to do this. The argument is over who pays. This bill is introduced as previous bills were, on the behest of the treasurers, and it would go to the person who is purchasing the deed or certificate. The alternative would be to have the delinquent property taxpayer pay this cost. I think either way the committee chooses to move on this, and I know you discussed it over the summer, would make sense. I'm coming strictly from a former county commissioner standpoint where we looked for every way to make sure that county government was operating efficiently and that we were charging the appropriate amounts. And so that's what this bill is about

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and I hope you will consider the two alternatives. But it's written at present so it would be the purchasing person who would pay the additional funds.

SENATOR LANDIS: Questions for Senator Thompson? Thank you, Nancy. Appreciate it.

SENATOR THOMPSON: Thank you.

SENATOR LANDIS: First testifier in favor of this measure?

SENATOR THOMPSON: And I will waive closing and go back to Appropriations if that would be all right?

SENATOR LANDIS: All right.

SENATOR THOMPSON: Thank you.

SENATOR LANDIS: Proponents.

RENE DREILING: Senator Landis, members of the Revenue Committee, Rene Dreiling, D-r-e-i-l-i-n-g. I'm speaking on behalf of my boss who actually is in favor of this. We tried to compute roughly what it costs us and we probably devote almost 80 hours just in the one week that we sell the sale, and then continuous maintenance. So it is a...we lose money with what we are collecting right now, so it is important to increase it, we think. On the redeeming side of the house, that increase, all of our workers in our office on the real estate side, it's the same situation. This is a constant process. It runs all day...all year long and it tapers off usually about January 1, about the time we're getting ready to put out the new list for the next year, and then it starts up again.

SENATOR LANDIS: Rene, I don't know who your boss is when you said you are representing your boss.

RENE DREILING: Oh, sorry. Rich James, the Sarpy County Treasurer.

SENATOR LANDIS: And can we mark that down as who you are representing in this case, would that be fair?

RENE DREILING: Yes.

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SENATOR LANDIS: Rene, I was just thinking, at 14 percent, \$1,000 of back taxes would produce in a year's time \$140 worth of interest to pay. All right?

RENE DREILING: Yes, sir.

SENATOR LANDIS: And if we spend \$10, as we do now, you essentially, on \$1,000 of back taxes, have to wait a month before you are going to make money because you paid \$10 for this certificate and you're getting about \$10 or \$11 of interest per month; \$12 of interest may be a little bit closer to it. So it takes about a month to pay it off. At \$25, you're going to have to hold it for about almost a quarter; almost three months before you'll break even. One of the effects of this will be to take out the profit of relatively small tax purchases. You're going to want to buy a \$2,000 back taxes or \$3,000, so that...you're not going to want to tie up your money for a quarter and get nothing, right? So, in essence, won't this cut off the number of tax sales? And if that happens, won't there be a second benefit that you will get, and that is they'll be fewer places where somebody will buy the back taxes and get the 14 percent, but the county will continue to get the 14 percent because those tax certificates won't be sold. You're going to make money two different ways. You're going to get a cost recovery from \$10 to \$25 and you're going to sell fewer tax certificates, thereby making sure that the county participates in the 14 percent that will be levied. Is that a fair characterization?

RENE DREILING: We don't do county certificates in our...ours are just...if they're not sold at the tax sale, they just stay on the rolls as delinquent...

SENATOR LANDIS: Right.

RENE DREILING: ...and it builds up.

SENATOR LANDIS: That's right. Which means that the fewer sales you have, the more that stay on the rolls which are not bought, and then when the 14 percent is collected, it will come to the public entity, not the private entity who would have gotten it had they bought the certificate.

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RENE DREILING: That's correct. If it reaches the point whenever it is paid by the owner of the property, then the 14 percent comes to the county and then it's divided up among all the entities who are part of that tax levy.

SENATOR LANDIS: Kind of. Okay.

RENE DREILING: And right now we go down to usually around \$400 is how low we get on tax sales.

SENATOR LANDIS: People won't go below that.

RENE DREILING: Some years it's a little bit lower.

SENATOR LANDIS: And if we move to \$25, it will go up to \$600 or something. It will go up to some amount of money.

RENE DREILING: It will probably, I would envision. And the redemption process for tax sales is...I used to track it for about five years...and it's the same cycle all the time. There's 10 percent that redeem in the first 30 days because they're mad because we put their names...not their names, but their property in the paper.

SENATOR LANDIS: Yes.

RENE DREILING: And then it spreads out over 18 months and tapers off until it reaches a three-year point where the purchaser has to do some legal action maybe.

SENATOR LANDIS: Other questions for Mr. Dreiling? By the way, those of us who follow the folks in personnel, it's Rene's son Mark who is working for Mark Quandahl last year.

SENATOR CONNEALY: And Senator Brown now.

SENATOR LANDIS: And Senator Brown now; that's right. Thank you, Mr. Dreiling. Appreciate it.

RENE DREILING: You bet. Thank you, sir.

SENATOR LANDIS: Next testifier in favor. In opposition?

PETER KATT: Good afternoon, Chairman Landis, members of the committee. My name is Peter Katt, and that's spelled

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LB 607

K-a-t-t. My primary practice is I'm a real estate lawyer, but I also am a principal in two local Nebraska companies that invest in tax sale certificates in the state, and as a part of my legal practice then I represent a number of other clients that purchase tax sales certificates throughout the state of Nebraska. So I'm fairly knowledgeable of the process and procedures and also the business practices in terms of investing and buying Nebraska tax sale certificates. This is...we appeared last year in opposition to this bill in terms of raising the fees. I believe the case for raising the fees can be made. We're not disputing the county treasurers' needs to have some additional revenue perhaps to handle this burden in their office, and that's a decision to be made. However, this bill would place all of that cost, or at least it's uncertain where the cost would be placed in terms of who ultimately pays. The counties in the state of Nebraska have differing opinions as to who is responsible for paying the issuance fee on the tax sales certificate. Some counties, like Lancaster, when a taxpayer comes in, require the taxpayer to pay the fee in addition to the amount of the redemption price. Other counties, like Sarpy, do not, and they make, in effect, the tax sales certificate purchaser pay the fee and it's not a part of the recovery. And so we had a proposal in, and one of the other companies in Nebraska, I believe has put in a proposed amendment the same as it was last year, that should there be a determination to raise this particular issuance and assignment fee, that we clarify the statutes to provide that the delinquent taxpayer has to pay that fee--the \$10 fee or the \$25 fee, whatever the fee is when they redeem the property. In terms of fairness, none of this would happen. The extra work for the treasurer's office, the...would not occur if people simply paid their taxes on time like you and I do. And so, as a matter of fairness, it is not unfair for those taxpayers that aren't living up to their duty to pay for the additional costs that they make people incur because they don't pay their taxes on time. And it would be unfair and it would decrease the likelihood of investors to want to buy Nebraska tax sale certificates if this fee were increased and it needed to be absorbed. I think Senator Landis' point in terms of what the consequence would be is exactly what would happen. I would be happy to answer any questions which you might have.

SENATOR LANDIS: Questions for Mr. Katt. Thank you, Peter.

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LB 607, 578

Appreciate it.

PETER KATT: Thank you.

SENATOR LANDIS: Next testifier in opposition? Neutral testimony? Senator Thompson has waived closing. That closes the hearing on LB 607 and we move to Senator Raikes' LB 578.

LB 578

SENATOR RAIKES: Senator Landis and members of the Revenue Committee, Ron Raikes, representing District 25, the, judging by yesterday's Exec Session, "Not Always Prevailing District,"...(laughter)...here to introduce LB 578. LB 578 provides for the final calculation of state aid which is made subsequent to the initial calculation of aid to include an amount to reflect corrections of adjusted valuation made by the Property Tax Administrator. Funds received by school districts pursuant to corrections to adjusted valuations are to be included as local resources for purposes of calculating state aid, TEEOSA. So let me give you the story here. There is a company in Blair, Nebraska, that is receiving or has received benefits under the LB 775 programs, generally speaking. Apparently,...and I don't know the specific details of this but hopefully I can give you a rough idea...there was a decision made that they were not eligible for a property tax or real estate tax rebate. So, based on that decision, the property was taxed and the receipts made available to the public school in Blair, and so on, like normal. And the state aid...Blair is an equalized school system...the state aid calculated for Blair took into account the fact that that valuation was available for taxation and so on. Since then, the particular company, Cargill, has decided that they didn't believe that was an appropriate decision so they have pursued an appeal. This appeal has come, of course, after the certification of state aid, which was February 1. This appeal is to be decided at least initially by the Property Tax Administrator. If it were the case...to lay out the problem...if it were the case that the Property Tax Administrator decided in favor of the appealing company, Cargill, then the result would be that the property taxes that were to be collected...and I guess the first payment would be due in April or May...they would

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not be...Cargill would not be required to make that payment, and, in fact, also the certified amount as of February 1 would be wrong because it would have included property valuation that was then not forthcoming. So there has not been a decision made on this appeal at this point. If it is made...and that's the way this bill is put forward...if it's made before May 31, or, no, I think we actually changed that in an amendment to June 30, then we would...I have to think about that one a little bit. If the decision is made soon, I'll put it that way, then what this bill would call for is that there would be an amount appropriated by the Appropriations Committee in excess of the certified aid amount so that the loss in aid that Blair would incur would be covered by that certification. Now that would, in effect, be a change in the February 1 certification, the initial certification. The other thing you can do is, if that didn't happen, then the difference is picked up in the so-called respond or the second certification. The difference is, in that instance the million dollars...and this is a significant amount of money...the million dollars would come out of the hide of all other school districts around the state. So I hope I've related to you the dilemma.

SENATOR LANDIS: Ron, my head hurts, hearing that description. But the whole effect is to get it so that it's...it's more...in the cycle of budgeting at a better time and in a more knowable way, and not to transfer costs to other schools? Is that the goal?

SENATOR RAIKES: Yes. The later component is definitely involved. But the other component is to basically hold Blair schools harmless or nearly harmless as a result of this tax incentive decision and appeal.

SENATOR LANDIS: Senator Janssen has got a question.

SENATOR JANSSEN: Senator Raikes, but in order to do that, you would have to recalculate and some other schools then would lose state aid. I mean, throughout the whole state.

SENATOR RAIKES: If you do it after the initial certification. So if you just simply say, we're going to hope this doesn't happen, that...we're going to hope that the appeal is not granted so that...

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SENATOR JANSSEN: That the judgment...yeah; right.

SENATOR RAIKES: But let's say that's wrong. The appeal is granted. Then Blair would be shorted \$1 million and the way that \$1 million would be covered in the respend, would be every other district in the state would be shorted enough to make up \$1 million.

SENATOR JANSSEN: To cover that million.

SENATOR RAIKES: Yes. And certainly that's something you could do, or as was pointed out to me, you could say, all right, let's change the \$900,000 to \$450,000 so that in the event of the sequence I just said, well, half of it, this discrepancy, would be made up by an appropriation. The other half would come out of the hides of the other school districts in the respend.

SENATOR JANSSEN: Would you explain how this action came about with Cargill?

SENATOR RAIKES: I can't, and that's a good question. I don't know. Apparently, all I can tell you, as I understand it, Cargill believed they were entitled to a refund on property taxes levied. And it turns out that the decision was made that they were not entitled to that refund, so they were assessed...

SENATOR JANSSEN: Yeah.

SENATOR RAIKES: ...and billed for the taxes.

SENATOR JANSSEN: That's been there a long time. Why did this just come up right now?

SENATOR RAIKES: Ah, well, it's a good question and it may well have been they've been doing a bunch of additions to the facility there, I think, and it could well relate to that.

SENATOR JANSSEN: They're always building. Yeah.

SENATOR RAIKES: Right. Yeah, and my guess is that's what is going on.

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SENATOR LANDIS: Other questions?

SENATOR RAIKES: I do need to mention an amendment. This has got to have the emergency clause. (Exhibit 1)

SENATOR LANDIS: All right. Thank you very much, Senator Raikes. Those in favor...first testifier in favor of this measure.

DAVE KASLON: Senator Landis and members of the Revenue Committee, thank you very much for giving us the opportunity to visit with you today. My name is Dave Kaslon, and it's spelled K-a-s-l-o-n. I'm the assistant superintendent for the Blair Community Schools. With your permission I would like to ask if we could kind of do a tag team, if you would, with me today also is our school board president, Lyle Schjodt, and what I would like to do with your permission, Senator, would be to give you a short introduction, have our board president go through a time line in terms of sequence of events, and possible scenario that we may encounter with this situation.

SENATOR LANDIS: Why don't you testify first? We'll ask any questions we have. We'll move on to the...is it the chairman of the school board, is that the position? We'll ask him to come up next and we'll ask him whatever questions and take whatever testimony he has.

DAVE KASLON: As indicated by Senator Raikes, LB 578 basically is a bill that would assist schools from possibly taking a double loss in revenue if an appeal by a taxpayer or a corporation for LB 775 status is decided after the calculations of state aid are figured for school districts. The state aid formula in itself is based on needs minus resources, of which valuation is included. That amount is certified on August 20. State aid is received by districts that have higher needs than resources. So when there is a loss in the valuation amounts or a loss in the resources after the state aid has been determined, the money that is actually due to those school districts becomes skewed. Our president Mr. Schjodt would outline for you a time line of the events, basically, that has...we have encountered in this situation to this point. So if you have any questions, then... (Exhibit 2)

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SENATOR CONNEALY: Thanks, Dave. Questions from the committee for Mr. Kaslon? Thank you.

DAVE KASLON: Thank you.

LYLE SCHJODT: Senator Connealy and members of the Revenue Committee, my name is Lyle Schjodt, spelled S-c-h-j-o-d-t. I'm a resident of Washington County. I'm a farmer and I'm president of the Blair school board. We're here today to discuss the merits of LB 578. And we constructed a time line of events that have occurred in our district so that we might help you understand how the situation arose and why we believe it's necessary to have this legislation. (See Exhibit 2) As was mentioned earlier, the applicant for the appeal is Cargill, and they had appealed for LB 775 status. That petition was denied on August 10. Then on August 20, the Washington County assessor certified the valuation for our school district and part of that certification included the \$95.5 million of property which had helped LB 775 status had applied to, so there is a considerable amount of money there. And that's where we get the certified valuation for our school district to build its budget from. In September, we learned that Cargill had again appealed that decision under LB 775 status. On September 13, at our regular board meeting then we approved a budget for the 2004-05 season and set a levy which was based on the certified valuation of August 20, which includes the amount of property that is now under appeal by Cargill. On November 8, our school district filed a protest with the Department of Property Assessment and Taxation as to the certified valuation of our school district, feeling that the amount that's in question under appeal should not be considered as part of our certified valuation. Then on December 31 we learned that that protest had been denied because the appeal which is under consideration and not yet been decided, therefore our protest was denied. On February 1, the state certifies our state aid for the following school year which will be the 2005-06 school year, and that state aid was adjusted to compensate for the increase in valuation which we got back on August 20. That appeal resulted in about a \$900,000 reduction in state aid for our '05-06 budget year. So on today, February 17, the current status is as this: that the applicant's appeal has not yet been decided, so we don't know how that's going to turn out for sure. However, if the

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outcome is that the appeal is unsuccessful, then the certified valuation and the state aid, which we have been allotted, is correct and that's what we would expect to operate our school with. We still have some concerns about future appeals that may take place through the courts. I'm not...shouldn't even, if that's possible, but certainly could affect is in the future. If the appeal is successful, then our school district loses, first of all, about \$1.1 million in revenue which we had budgeted for in the '04-05 budget year. We expect to collect that in this current year. We will lose \$900,000 next year in state aid for '05-06, and if the appeal is successful we will also lose the \$95.5 million in property that we could have levied against in order to collect the loss in state aid, or recover the loss in state aid. So that is the scenario as it is to this point. And the following page is prepared by Mr. Kaslon, but if you have any questions of me, I would be certainly willing to answer those.

SENATOR CONNEALY: Thanks, Lyle. Do you have a copy of that for the committee?

LYLE SCHJODT: Yes.

DAVE KASLON: Yes, sir.

SENATOR CONNEALY: Okay. Give it to the page over here. Thank you. Questions from the committee? Senator Baker.

SENATOR BAKER: Thank you, Senator Connealy. What...I understand the process for the schools, at least I think I do. What about the county? Are they involved? Why aren't they here? I know if you lose the valuation, obviously you've lost the tax off of it and you can't make it back in state aid. What about the county? Has that been an issue brought up to you? Are they part of this or what do they think about all this, too?

LYLE SCHJODT: Certainly. I visited with some members of the county board, and, of course, it's an issue for them also, as well. I don't know exactly...I can't speak to the reliance on state aid, if the assessed valuation of the county affects their state aid, but...

SENATOR BAKER: They...that would...it would...it's not like

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a school, but if they had 900,000...or...you're saying 900...or...\$95 million worth of valuation, they had a 40 cent levy, I mean, it's got to affect the county, and they have no way to make it up, period.

LYLE SCHJODT: Absolutely.

SENATOR BAKER: So I guess my question is why aren't they here, too? I...you've talked to them and I guess they aren't out here.

LYLE SCHJODT: I can't speak for them.

SENATOR BAKER: Okay.

SENATOR CONNEALY: Senator Janssen.

SENATOR JANSSEN: Lyle, maybe they figure you're going to handle this on your own, huh.

LYLE SCHJODT: I don't know; it could be.

SENATOR JANSSEN: Now, is that plant within the city limits or is it not?

LYLE SCHJODT: No. I believe it is outside the city limits. The city of Blair does not collect revenue from them.

SENATOR JANSSEN: Okay. So they wouldn't have a dog in that fight either then.

LYLE SCHJODT: No, they would not.

SENATOR JANSSEN: All right.

LYLE SCHJODT: Nope.

SENATOR JANSSEN: Because they have levied what they needed to levy. You levied what you thought you had to have.

LYLE SCHJODT: That's correct.

SENATOR JANSSEN: And then this happened.

LYLE SCHJODT: That's correct.

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SENATOR JANSSEN: Thank you.

SENATOR CONNEALY: Other questions of the committee? Thank you, Lyle.

LYLE SCHJODT: Okay, thank you.

SENATOR CONNEALY: Other proponents? Is there any opposition?

DAVE KASLON: Senator, I was just going to ask if you needed any further clarification on the handout that was given to you?

SENATOR CONNEALY: I think we've got it, so thank you.

DAVE KASLON: Okay, thank you.

SENATOR CONNEALY: Any opponents? Any neutral testimony? Senator Raikes?

SENATOR RAIKES: I'll waive and you can go on to the next bill.

SENATOR CONNEALY: Senator Raikes waives closing on LB 578, so that will close the hearing, and we'll move to the next bill which is LB 582.

LB 582

SENATOR RAIKES: Good afternoon, Senator Connealy, members of the committee. Ron Raikes, District 25, with LB 582. LB 582 requires that in order to be appointed to or file for the office of county assessor in counties with 100,000 or more inhabitants, an individual must be a certified general real estate appraiser under the Real Estate Appraiser Act or designated by the International Association of Assessing Officers as a certified assessment evaluator, an assessment administration specialist, or a residential evaluation specialist. The intent behind this legislation is simply to ensure that individuals holding this position have the necessary background in order to adequately perform the duties it requires. I would point out a possible amendment

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that was brought to my attention by George. It is also noted in the bill summary. Currently, assessors must complete criteria called for by the Property Tax Administrator to gain certification or recertification. Obtaining one of the credentials included in LB 582 would be considered an alternative to earning recertification in lieu of completing the current criteria. On page 3, lines 4-7 of the green copy of the bill, you will notice that the word "required" is stricken. That needs to be reinserted to account for assessors who have not obtained one of the credentials listed in this bill and would therefore need to meet the other criteria to become certified or recertified. I want to reiterate I think this bill is an important one from the standpoint that ensures assessors in high population counties are properly educated. I urge you consideration.

SENATOR CONNEALY: Thank you, Senator Raikes. Questions from the committee? Seeing none, first proponent of LB 582.

ROB OGDEN: (Exhibit 3) Welcome, Senator Connealy, Revenue Committee members. I'm Rob Ogden, O-g-d-e-n. I am chief deputy Lancaster County Assessor/Register of Deeds and that's who I am representing in this testimony. I have some points that I'll just go through. I have copies of these so will give you those afterwards. So you can see how much I elaborate from what I've written, which hopefully isn't too much. There are plenty there. We would desire that a professional in the mass appraisal field is in office to perform the increasingly intricate duties of the county assessor. To help ensure the assessor's office follows standard appraisal practices and has a requisite background to develop a staff and business plan to arrive at equitable market values. The bill would require the assessor to fall under either the IAAO standards or the USPAP standards. And if you are one or if you are both, you would fall under both. And it would...in requiring the certified general, that falls under USPAP standards, and the other designations, AAS, CAE, and RES would fall under the IAAO jurisdiction. And they are the major mass appraisal professional group in the country. Typically, people that have these designations have experience running appraisal projects or an appraisal company. Current assessors need to utilize specialized technology and apply their specialized knowledge which is both an art and a science, and a lot of

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that takes experience. What you really can't speak for in this bill is that generally having these requirements you will end up with people who do have the experience. I have one thing in closing, but what I would like to add, we intended to have this bill deal with the major metropolitan areas, basically Lancaster and Douglas County. That was what we talked to Senator Raikes about as far as the 100,000 population. We recognize that there is a limited number of people that would fit these criteria in the other counties around the state, and that's why we directed it basically to the two major ones. Now, putting it at 100,000 population, I believe included Sarpy County, and we haven't talked to Sarpy County, so...and I believe he's here so you'll get to hear from him. In closing, a function that has a significant effect on taxes that are paid by the public should be entrusted to an educated professional in the appraisal field.

SENATOR CONNEALY: Thank you, Rob. Questions of the committee? Senator Raikes.

SENATOR RAIKES: Rob, would you qualify under these requirements?

ROB OGDEN: Yes.

SENATOR RAIKES: How many people are in your office?

ROB OGDEN: There are 47.

SENATOR RAIKES: How many of them would qualify?

ROB OGDEN: There would be approximately five.

SENATOR RAIKES: Five out of 47 that are actually employed in...?

ROB OGDEN: That are actually employed in our office that are certified general appraisers.

SENATOR RAIKES: How many in the city of Lincoln would qualify?

ROB OGDEN: There's...that I did not check, but I would say there's 80...50...there's a number of certified general

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appraisers in the city of Lincoln.

SENATOR RAIKES: But you would be limiting the pool of candidates for the assessor's position then?

ROB OGDEN: Yes, it does limit the pool, but from what I know...I don't know the exact numbers, but in Lancaster and Douglas County there is a significant number of people that meet these standards.

SENATOR RAIKES: The other question would be is, I think you made the case that you need good, well-trained people who understand the function to perform this but not if the county has less than 100,000 people?

ROB OGDEN: Well, I think the reality is it's...ideally, I would say it would fit every county, and I think you can take an example, the state of Kansas has requirements similar to having a designation. There are different levels there. Now, their county assessors are called county appraisers and they are appointed by the county, and in the western part of Kansas there are several counties that share the county appraiser, so there is, like, two to three counties that pool their money together and pay for that county appraiser to take care of all three counties.

SENATOR RAIKES: Okay. Thank you.

SENATOR CONNEALY: Other questions from the committee? Thank you, Rob.

ROB OGDEN: Thank you.

SENATOR CONNEALY: Next proponent. Any other proponents? We'll move to opposition.

DAN PITTMAN: (Exhibit 4) Good afternoon, Senator Connealy and members of the Revenue Committee. My name is Dan Pittman, P-i-t-t-m-a-n. I'm the Sarpy County Assessor. I'm speaking on behalf of the county assessor's office in Sarpy County. I'm testifying in opposition to the bill, LB 582, as it is written on the grounds that it severely restricts the access of the public to this elective office. There are currently restrictions to file for this office in the form of an assessor's certification examination

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administered by the Nebraska Department of Property Assessment and Taxation. Further, there are existing requirements for continuing education to improve and maintain necessary assessor skills. Requiring the assessor to become a certified general appraiser will require time working outside of his or her assessor duties to meet the qualifications to become a general certified appraiser. Appraisers who already have this designation are few in number and generally lack the mass appraisal skills that are necessary to be an assessor. Further, the income demanded by appraisers carrying this designation is currently higher than the income received by assessors currently. If the purpose of this legislation is to ensure that individuals in candidacy for this position have a background necessary to perform his duties, I believe that the Nebraska Department of Assessment and Taxation is qualified to determine those duties and to prescribe the necessary training and testing to ensure an acceptable standard of professionalism for Nebraska assessors. It is my opinion as an assessor in a county of over 100,000 population that the Department of Property Assessment and Taxation is doing a good job of providing access to high-quality training and assessors and those desiring to become assessors simply need to increase their participation in the training. I urge you to look at the Department of Property Assessment and Taxation...I urge you to look to the Department of Property Assessment and Taxation and assessors, in larger counties, to assist with crafting any further legislation restricting the access of the public to the elected office of county assessor.

SENATOR CONNEALY: Thank you, Mr. Pittman. Questions from the committee? Senator Baker.

SENATOR BAKER: Thank you, Senator Connealy. What is the training requirement to stay certified? How many hours of continuing ed a year, or do you know?

DAN PITTMAN: There is a two-year requirement, and I believe it's 80 hours, and...

SENATOR BAKER: Over the two-year period?

DAN PITTMAN: Right.

SENATOR BAKER: Okay, are there classes offered in that

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or...?

DAN PITTMAN: I'm sorry?

SENATOR BAKER: Are there classes, regularly offered classes?

DAN PITTMAN: Yes, there are required classes. And many of them are offered through the IAAO, which was mentioned earlier by Rob from Lancaster County, which is the International Association of Assessing Officers which deals strictly with mass appraisal so, and it's an international organization.

SENATOR BAKER: Okay. Thank you.

SENATOR CONNEALY: Other questions from the committee? Do you have any certified appraisers in your office?

ROB OGDEN: The one that this bill calls for, being certified general, I have two. The whole county of Sarpy has four and I employ two of them, so there is just a very small base to draw from.

SENATOR CONNEALY: Any other questions? Thank you.

ROB OGDEN: Thank you.

SENATOR CONNEALY: Other opposition? Neutral testimony? Senator Raikes waives closing on LB 582, and we'll move to Senator Smith with LB 699.

LB 699

SENATOR SMITH: Thank you, Chairman Connealy, members of the Revenue Committee. If you don't mind my waiting, we have a holding room with about 50 proponents; just joking.

SENATOR CONNEALY: They just got off the bus.

SENATOR SMITH: That's right.

SENATOR BAKER: Let's get out of here.

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SENATOR SMITH: My name is Adrian Smith, A-d-r-i-a-n, Smith, S-m-i-t-h. I am here to introduce LB 699 that deals with land values and zoning and a lot of good stuff like that. LB 699 removes the requirement that land must be zoned predominantly for ag or horticulture use to qualify for special valuation when figuring assessed value. Currently, in Section 77-1344, in order for land to qualify for special valuation, it must meet three requirements. One, the land must be located outside the corporate boundaries of any sanitary and improvement district, city or village; two, the land must be used for ag or horticultural purposes; and, three, the land must be zoned predominantly for agriculture or horticultural purposes. LB 699 eliminates the third requirement and harmonizes other related sections regarding special valuation that reference zoning. In addition, LB 699 moves and adds definitional language from 77-1343 to 19-2428. We've had some scenarios in my district where there is subject land here that is zoned commercially for reasons existing because of comprehensive plans. And what has happened is the tax bite goes up considerably for property taxes when it's clearly, without even a change in ownership, but it's clearly ag purposes that the land is clearly a farm. Now there is some other land that is speculated--development land--that may be included here but what we've seen then happen on both scenarios that I just mentioned, is the cities go back and change the zoning and basically get away from their comprehensive plan. That's my concern. I think we need comprehensive plans. Those are a good tool of smart development, good development, and the authority exists to get around that, to get around the assessment and value issue. And so we're ending up in the same place. This bill would seek us...or this bill would lead us to, but we're getting around the comprehensive plan, and that's troublesome to me. I hope I've explained it. It is a little confusing, but I'm sure Senator Raikes has questions, among others.

SENATOR CONNEALY: Thank you, Senator Smith. Questions from Senator Raikes?

SENATOR RAIKES: Are you a proponent or an opponent? I was trying to tell from your...

SENATOR SMITH: I'm a proponent, Senator.

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SENATOR RAIKES: Let me ask you, wasn't...in the situation you are thinking about, would it be fair to say that there was a zoning change that occurred that really shouldn't have occurred?

SENATOR SMITH: I can't say that there was. Based on long-term growth, I think there needs to be some mindset that this is a scenario that...it's a farm now but it doesn't necessarily have to stay that way only because it is close to an industrial tract. Does that answer your question?

SENATOR RAIKES: Well, I think it's in the direction. But what I'm thinking is, that, you know, the timing is everything, and if you change the zoning 20 years before anything happens or you hope there will be commercial development here. And so you change the zoning, hoping that this will happen. Or maybe you change the zoning to encourage this to happen rather than this has happened so we need to accommodate it with a zoning change.

SENATOR SMITH: Now, say that again. (Laughter) I'm sorry.

SENATOR RAIKES: Well, I'm not going to torture my committee with repeating that, but the question is the timing of the...I'm still on the issue of whether or not this...we're compensating for a mistaken change in zoning by making another change someplace else, if really the more...the issue we should focus on is under what conditions or in a particular circumstance was the correct decision made about changing zoning at the correct time.

SENATOR SMITH: Right. I'm not willing to say that even the timing was bad for changing the zoning according to the comprehensive plan. I mean, it was somewhat close to town. I can't fault the original plan or zoning. I just think that we can delay that value until such time that it's a more realized value.

SENATOR CONNEALY: Senator Cornett.

SENATOR CORNETT: I just want to make sure I'm clear on this. Basically, the zoning changed on a piece of property even though the use did not change, therefore because the zoning changed, you lost probably your greenbelt status on

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that property?

SENATOR SMITH: Well, this did not, for some reason...and I'm not a greenbelt expert, but the greenbelt...

SENATOR CORNETT: Land valuation.

SENATOR SMITH: Right; right.

SENATOR CORNETT: Okay. We had something very similar in Bellevue, but it was different. The zoning didn't change but they annexed the area. The usage did not change. The farmer was assessed \$61,000 in taxes and recapture, and they had to go in and de-annex the property.

SENATOR SMITH: Right. Now, this land must be located outside the corporate boundaries.

SENATOR CORNETT: Right. But it's basically the same situation. The valuation changed because of either zoning or annexation, correct?

SENATOR SMITH: Correct.

SENATOR CORNETT: And you are just looking at the valuation not changing.

SENATOR SMITH: The use?

SENATOR CORNETT: No, the valuation. The use remains the same.

SENATOR SMITH: Use remains the same; the valuation should remain the same. That's certainly my intent.

SENATOR CONNEALY: Other questions from the committee? Thank you, Senator Smith.

SENATOR SMITH: Thank you.

SENATOR CONNEALY: First proponent.

CATHERINE LANG: Senator Connealy and members of the Revenue Committee, my name is Catherine Lang. I'm the Property Tax Administrator for the state of Nebraska, here in support of

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SENATOR LANDIS: And probably our transcriber has spelled your name many times, Cathy, but maybe not.

CATHERINE LANG: Oh, that's correct. It is spelled L-a-n-g.

SENATOR LANDIS: There we are.

CATHERINE LANG: I think that the issue presented in this bill should be considered by the Revenue Committee. I think that it is an interesting concept that relates as well to another bill that I believe still may be in committee, which is LB 407. And I do have a couple of examples where the issue of zoning, in my opinion, creates a question about the valuation policy related to when do we grant the preference for agricultural land, when do we grant the preference for special value. And Senator Cornett, I think that it would lead to, as well, a discussion of the issue that you raised with regard to annexation inside the city, however this bill does not go that far.

SENATOR CORNETT: No, the bill doesn't, but that would be something that...

CATHERINE LANG: Right. The other thing that I want to bring to your attention before I give my two examples is that the bill touches two issues on zoning. And I want to start with agricultural land first, and then talk about special values, second. To receive agricultural land preference, which is 80 percent of full market value, you must not be zoned something other than ag, and that has always been a criteria. And then when you move to special value, you must be zoned ag. They do work hand in hand together, as well you must be outside the corporate boundaries of the city, village, or SID. All in all, though, you always must be using the land for agricultural purposes, so the question that I think this bill brings to the committee is, when we are granting the preference for agricultural land, and ultimately when we are granting the preference for special value, what are the criteria we want to focus on. Let me give two examples of where I think the zoning issue has created situations we may not have intended. The first one relates to agricultural land, not special value. We have small towns in Nebraska wherein

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there are areas that are platted there within the boundaries of those small towns but they are being used for ag. They are going to be used for ag for a long time; they are not going to be developed. And so probably the market value of that property, it would sell in the market place as agricultural land in an agricultural market. We cannot grant agricultural valuation if within those boundaries it is zoned something other than ag, and a lot of times once you are inside the boundaries of a city, you are zoned commercial, you are zoned "res"; there is very little land that is zoned ag. So the question that is presented in the change made in 77-1359 in this bill is that as long as it is being used for agricultural purposes, even though it is inside the city limits of the small town, it could be at 80 percent of market value. And in a lot of cases those parcels market value is for agricultural purposes, and so they would be being treated the same as land outside those small cities, and that does happen. Switch gears a little bit to talk about specifically what I know Senator Smith is trying to address in this bill, and it will then go, I think, Senator Raikes, to some of the questions that you raised. A large city has its zoning jurisdiction outside of its boundaries, and it has gone out and zoned an entire area as industrial, and the county can do this, as well, but they've gone out and they've zoned the entire area as industrial in hopes of attracting industrial development over a period of time. But that development is either not being realized or it is slow in coming or it is just with the intent that they hope to attract it. In that area it is...that land is being used for agricultural purposes and uses. It cannot receive special value because it is being zoned for something other than ag purposes. It is all zoned industrial. And we have begun...as we watch this around the state, we have begun to question in our agency whether or not that is what we should have as a formulation, as a criteria for whether or not you get ag land or whether or not you get special value. Years passed. I appeared before this committee and testified to you that in my opinion I thought that zoning mattered and should continue no matter, and should be there. I am here today to tell you that I think this bill presents an interesting question of whether or not we should continue under that criteria for the purposes of getting special value or agricultural land treatment.

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SENATOR LANDIS: I've got to tell you, Cathy, I could be wrong, but we don't have a way of identifying ourselves on the committee statement as saying I find this an intriguing idea. (Laughter) We are broken down into proponents, opponents, and neutral. Where are we, Cathy?

CATHERINE LANG: In my opinion, I am a proponent of the concept of removing zoning as a criteria for whether or not you get special value or you get agricultural land--I should have said it in reverse.

SENATOR LANDIS: And is there any other policy goal achieved by this bill than that? I mean, are there other...? That your careful use of language makes me say, is there something else in this bill because when I look at this bill all I see is the idea that, look, you're going to do a land valuation essentially by use, not zoning.

CATHERINE LANG: Yes. Yes. Except if it's special value and you are inside the boundaries of a city, SID, village, then you cannot get special value.

SENATOR LANDIS: Okay. Is this...? Is this what we should be doing? Is this a...are you, as a proponent, saying, look, this is a good idea; I thought about it; I changed my mind; this is a good idea.

CATHERINE LANG: Yes, sir.

SENATOR LANDIS: That's...oh, okay; good, okay. Because I couldn't interpret the "I think this is an intriguing idea," could mean, like, it's interesting but it's also a good idea, which means you support it.

CATHERINE LANG: In my opinion, yes, it is.

SENATOR LANDIS: Okay.

SENATOR SMITH: All of the above.

SENATOR LANDIS: Senator Janssen. One witness at a time, thank you very much. You'll get your closing. Senator Janssen.

SENATOR JANSSEN: Listening to this discussion, how about

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this scenario? You have a village, all right. They are zoned. And within that village, there is agricultural land; say, an alfalfa field...

CATHERINE LANG: Um-hum.

SENATOR JANSSEN: ...that is used primarily for hay. Now, how would you zone that? It's inside the village limits.

CATHERINE LANG: If it is zoned ag, it could get, under current law, agricultural land treatment. It could not get special value unless it was in a conservation easement, which is an exception. If it is zoned residential, it cannot get ag treatment. And when I speak of ag treatment, I mean 80 percent of market value. I didn't tell you what the market value of the property was. It just can't get 20 percent preference. And...

SENATOR JANSSEN: So that land would be assessed at...

CATHERINE LANG: Market value.

SENATOR JANSSEN: ...market value, right?

CATHERINE LANG: That is correct.

SENATOR LANDIS: That's today.

CATHERINE LANG: That is today. If this bill were in place; if this were to be adopted, then the land inside the city, zoned any which way, can get 20 percent of market off of the value. They can be at 80 percent of market, let me state it that way. They can be at 80 percent of market.

SENATOR LANDIS: If it is being used for agricultural purposes.

CATHERINE LANG: Yes. I'm sorry. Thank you...

SENATOR LANDIS: If it's zoned for residential, industrial, ag, it doesn't make a difference. You go out there; you look at it and it is filled with sorghum; it's ag land and it's subject to the 80 percent, whatever the zoning is, yes?

CATHERINE LANG: Thank you for that clarification. Yes,

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that's correct.

SENATOR LANDIS: All right.

CATHERINE LANG: Because the use will be the primary qualification for treatment for agricultural land purposes.

SENATOR JANSSEN: Okay. All right.

SENATOR LANDIS: Now, Senator Connealy and then coming back to Senator Cornett.

SENATOR CONNEALY: Will we get an unintended consequence that it will encourage more zoning of commercial outside and encourage more trying to figure out ways to sprawl and grow in new areas? There is a impediment to that now because constituents say, don't do this to me, and don't plan that.

CATHERINE LANG: I used to think that, but what I've watched and observed in some of our communities...and I am not using this in a derogatory or condescending way...but aggressive overzoning that is then creating unintended consequences the other way. However, is it...and that's what the zoning restriction was intended to prevent, was the sprawl.

SENATOR CONNEALY: So we're going to encourage aggressive zoning.

CATHERINE LANG: I think you have it now. But, yes, Senator Connealy, you are right because the original intent of having the zoning restriction was to have planned growth without sprawl. That was its intent, as I understand it.

SENATOR LANDIS: Senator Cornett.

SENATOR CORNETT: This is somewhat of a rhetorical question. If you are in support of changing the basis to usage instead of zoning, next year would you be willing to also include agricultural land inside the boundaries of a city limit or an SID as long as it was still being used for agriculture?

CATHERINE LANG: It is...I would consider it. I have not thought through that next step, that next criteria.

SENATOR CORNETT: Do you see any logical impediments to it,

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considering zoning is basically...I mean, it's basically the same thing. The cities annexing so they can move that direction at some time in the future, as long as the status of the land doesn't change under that owner or the next owner?

CATHERINE LANG: I would be willing to consider those issues, but, to date, I do not have an opinion at this time.

SENATOR CORNETT: Okay.

SENATOR LANDIS: Other questions for Ms. Lang? Thank you very much, Cathy. Appreciate it.

CATHERINE LANG: You're welcome.

SENATOR LANDIS: Next testifier in favor. In opposition. Neutral? Senator Smith.

SENATOR SMITH: Only if there are questions?

SENATOR LANDIS: Are there questions for Senator Smith? No questions, Senator Smith. Thank you very much. That closes the hearing on LB 699 and the hearings for today.